

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EDWARD F. SIMPSON, et al.,

Plaintiffs,

v.

VSP NORTH AMERICA, LLC, et al.,

Defendants.

Case No. 1:16-cv-912

HON. JANET T. NEFF

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**OPINION AND ORDER**

On December 10, 2018, Plaintiffs filed a motion for default judgment (ECF No. 152). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that Plaintiffs' motion be granted (ECF No. 164). The matter is presently before the Court on Defendant John Von Stach's objections to the Report and Recommendation (ECF No. 165). Plaintiffs filed a response (ECF No. 167), to which Defendant replied (ECF No. 168). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

An objection to a magistrate judge's report and recommendation must "specifically identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for such objections." W.D. Mich. LCivR 72.3(b). The Court reviews de novo "those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* District courts need not provide de novo review of frivolous, general, or conclusive

objections. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). Additionally, arguments not raised before the Magistrate Judge are not properly raised in an objection to a Report and Recommendation. *See United States v. Waters*, 158 F.3d 933, 936 (6th Cir. 1998); *Bartlett v. Borgess Hosp.*, No. 1:17-cv-1138, 2018 WL 4521936 at \*1 (W.D. Mich. Sept. 21, 2018).

Defendant argues that the Magistrate Judge erred in her determination of damages (Pl. Obj., ECF No.165 at PageID.751-53; R&R, ECF No. 164 at PageID.742). The Magistrate Judge recommended that default judgment be entered against all Defendants, joint and several, in the amount of \$462,971.20 (R&R, ECF No. 164 at PageID.742). Defendant argues that the calculation of damages is “totally incorrect” (Def. Obj., ECF No. 165 at PageID.751). Defendant points to no specific error in the Magistrate Judge’s damages calculation, but instead challenges the substantive basis for that relief, addresses negotiations in his criminal case, and alleges that Plaintiffs’ counsel has “fabricated” parts of Plaintiffs’ claims (*see id.* at PageID.751-53).

Defendant’s argument fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion. As the Magistrate Judge noted, Plaintiffs’ motion “appears appropriate and thorough,” and Plaintiff Simpson’s affidavit “sufficiently outlines the basis for the damages sought” (R&R ECF No. 164 at PageID.741-742). The Magistrate Judge properly recommended Plaintiffs be granted default judgment in the amounts outlined in the Report and Recommendation (*see* R&R, ECF No. 164 at PageID.742). Defendant’s objection is denied as without merit.

The remainder of Defendant’s filing fails to assert proper objections to the Report and Recommendation. *See* W.D. Mich. LCivR 72.3(b). Plaintiff sets forth several arguments that do not specifically address the Report and Recommendation, and otherwise lack merit. For example, Defendant argues that he has not been afforded due process and did not receive notice of deadlines

as a result of the withdrawal of defense counsel (Def. Obj., ECF No. 165 at PageID.747). These arguments were not at issue in the Report and Recommendation. Furthermore, as noted by Plaintiffs and the Magistrate Judge, Defendant failed to comply with discovery requests before and after defense counsel withdrew from this case (Pl. Resp., ECF No. 167 at PageID.761-762; R&R, ECF No. 164 at PageID.739-740). After defense counsel was allowed to withdraw, the Magistrate Judge extended Defendant's pertinent discovery deadlines and placed the parties on notice that Plaintiffs could seek an entry of default if Defendants continued to fail to comply with Court orders (R&R, ECF No. 164 at PageID.739). Defendant's remaining objections, to the extent they address the Report and Recommendation, are denied.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Default Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

Therefore:

**IT IS HEREBY ORDERED** that the Objections (ECF No. 165) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 164) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that DEFAULT is entered against Defendants John Von Stach and Graziella Stach, and the Motion for Default Judgment (ECF No. 152) is GRANTED.

A Default Judgment consistent with this Opinion and Order will enter.

Dated: May 16, 2019

/s/ Janet T. Neff  
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JANET T. NEFF  
United States District Judge